people of the state, the enjoyment of which may be limited to its citizens as against both aliens and the citizens of other states. Thus in McCready *v.* Virginia, 94 U. S. 391, 396, 24 L. Ed. 248, 249, the restriction to the citizens of Virginia of the right to plant oysters in one of its rivers was sustained upon the ground that the regulation related to the common property of the citizens of the state."

Right of Parties to Withdraw from Legal Action.—An interesting question involving the right of parties to withdraw from legal action has recently been reported from the Circuit Court of Appeals, Second Circuit. The opinion appears in the case of The Titanic—In re Oceanic Steam. Nav. Co., published in 225 Federal Reporter, 747.

The steamship company having brought proceedings for limitation of liability for claims resulting from the destruction of the ill-fated vessel, certain claimants asked leave to discontinue. The court says: "It is asserted that the object of the claimant is to get permission to prosecute her suit in England. This may be true, but whether true or not is, in our view, immaterial. The motion is that the claimant have permission to withdraw her claim in the District Court. We do not see that she is called upon to state her reason for this motion, but it is easy to infer that her reason, as well as that of the other claimants, is that she is satisfied that she can get no adequate redress in the courts of the United States. If she has the right, her reason for asserting her right is immaterial. The rule is, we think, practically universal that, where a suit at law is commenced for damages and the defendant interposes no counterclaim and seeks no affirmative relief, the plaintiff may discontinue the action at any time on payment of costs. * * *

"Conceding, for the argument's sake, that the court is justified in considering the future, is it conceivable that any court will compel him, in invitum, to remain in its jurisdiction because he thinks he can obtain more complete justice elsewhere? We think not. The only question for the District Court was, Have these parties a right, on paying costs, to withdraw their claims? * * * If they decide to bring new suits or proceedings it is for the court in which the claims are presented to pass upon their validity and upon any plea in abatement or in bar which may be interposed."

Self-Defense in the Home.—A father shot and killed his son, a young man of 22, and was convicted of murder. The shooting took place in the little cottage where the son had been born and reared. On the trial the father maintained that he had acted without premonition, when blinded by passion because of blows and insults, and that

he had acted justifiably in lawful self-defense. The lower court instructed the jury in part: "To justify this defendant, applying the law to this case, in shooting his son, or shooting at him, or using any force against him, he must have had reasonable cause for believing, not that the boy some time in the future might do something against him, but he must have had reasonable cause for believing that the boy right then, when he came down those stairs and landed on the kitchen floor, was about to attack him. Even then he would have had no right to use a weapon, or any other force, if he could have gotten away from danger by retreating, if he could have gotten off the porch, and gone across the lot, and down the road, or around the house, or anywhere, to a place of safety, then the law says that he should have done so, and that he had no right to use the weapon against his son, unless all reasonable means of retreating were cut off, and the boy was threatening him with bodily injury, or putting his life in danger. The New York Court of Appeals, however, says: "We think that these instructions are erroneous as applied to the case at bar. The homicide occurred in the defendant's dwelling. It is not now, and never has been, the law that a man assailed in his own dwelling is bound to retreat. If assailed there, he may stand his ground and resist the attack. He is under no duty to take to the fields and the highways, a fugitive from his own home. More than 200 years ago it was said by Lord Chief Justice Hale (1 Hale's Pleas of the Crown, 486): In case a man is assailed in his own house, he need not flee as far as he can, as in other cases of se defendendo, for he hath the protection of his house to excuse him from flying, as that would be to give up the protection of his house to his adversary by flight.' Flight is for sanctuary and shelter, and shelter, if not sanctuary, is in the home. That there is, in such a situation, no duty to retreat is, we think, the settlled law in the United States as in England." See People *v.* Tomlins, 107 Northeastern Reporter, 496.